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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/603,966  | 06/25/2003  | Jeffrey H. Bailey    | MLE-101US           | 3733             |
| 24314   | 7590        | 01/12/2005           | EXAMINER            |                  |
| JANSSON, SHUPE & MUNGER, LTD<br>245 MAIN STREET<br>RACINE, WI 53403 |             |                      | CHIN SHUE, ALVIN C  |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |

3634

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/603,966

Applicant(s)

BAILEY, JEFFREY H.

Examiner

Alvin C. Chin-Shue

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) 3,5,15-19,25,26,32-35,39,40 and 45-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6-14,20-24,27-31,36-38 and 41-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 23 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “the rail support” lacks antecedent basis.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,4 and 20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Inokuchi et al. Inokuchi in figs 4 and 11 shows a winch device 10 and other material handling devices 5 and 6.

Claims 41 and 42 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Woodling. Woodling shows a rail support frame 84.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,21 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inokuchi et al. To provide a second of his winch device 10 to enable dual lifting, would have been an obvious to one of ordinary skill in the art by the duplication of Inokuchi's teaching.

Claims 22-24,37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inokuchi as applied to claim 21 above, and further in view of Peterson. Inokuchi shows the claimed apparatus with the exception of the slidably disposed support and jib members. Peterson shows a winch assembly having slidable disposed support and jib members. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the winch assembly of Inokuchi to comprise slidably disposed support and jib members, as taught by Peterson, to enable height and lateral extension adjustment. Furthermore, to attach the winch assemblies on opposite sides of the platform to provide balancing of the platform and to permanently secure the winch assemblies to the platform is removal is not desired, would have been an obvious engineering expediency.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooding in view of Shammout. Wooding shows the claimed apparatus with the exception of the material support feet. Shammout shows material support feet

34,38; 36,40. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wooding to comprise material support feet, as taught by Shammout, for supporting material on his basket.

Claims 9,28-30 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooding in view of Inokuchi as applied to claim 2 above. Wooding shows the claimed apparatus with the exception of the dual winch assembly. Inokuchi teaches a dual winch assembly. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wooding to comprise a dual winch assembly, as taught by Inokuchi as applied to claim 2 above, for lifting material.

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooding in view of Inokuchi as applied to claim 2 above and further in view of Peterson as applied above. Furthermore, to attach the winch assemblies on opposite sides of the platform to provide balancing of the platform and to permanently secure the winch assemblies to the platform is removal is not desired, would have been an obvious engineering expediency.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inokuchi in view of Shammout as applied above.

Claims 14 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wooding in view of Inokuchi as applied above and further in view of Shammout as applied above.

Applicant's election of fig.1 in Paper No. 11.04.04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin C. Chin-Shue whose telephone number is 703-308-2475. The examiner can normally be reached on Monday-Friday, 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alvin C. Chin-Shue  
Examiner  
Art Unit 3634

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